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3. The Federal Election Campaign Act of 1971, as amended ("the Act"), limits to \$1,000 per election the amount which any person may contribute to a candidate and his or her political committee; and limits to \$5,000 per calendar year the amount which any person may contribute to any political committee -- other than political committees established and maintained by a national party, which are not the authorized political committees of any candidate. 2 U.S.C. § 441a(a)(1)(A) and (C). The Act further limits to \$5,000 per election the amount which any multicandidate political committee may contribute to any candidate and his or her political committee. 2 U.S.C. § 441a(a)(2)(A). A "multicandidate political committee" means a political committee which has been registered under Section 433 of the Act for a period of not less than 6 months, which has received contributions from more than 50 persons, and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office. 2 U.S.C. § 441a(a)(4). It is a violation of the Act for any candidate or political committee to knowingly accept any contributions which are in violation of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

4. The term "contribution" includes (i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or (ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose. 2 U.S.C. § 431(8)(A)(i) and (ii). It does not include the payment of a State or local committee of a party of the costs of preparing, displaying, or mailing or distributing a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized. 2 U.S.C. § 431(8)(B)(v). In

addition, 11 C.F.R. § 100.7(b)(9) requires that the payment of the portion of the costs allocable to Federal candidates be made from funds subject to the limitations and prohibitions of the Act.

5. The term "expenditure" includes any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(9)(A)(i). The Commission has defined "anything of value" to include all in-kind contributions, i.e., "the provision of any goods and services without charge or at a charge which is less than the usual and normal charge for such goods and services" 11 C.F.R. §§ 100.7(a)(1)(iii) and 100.8(a)(1)(iv). Expenditures which are made by any person, including a political committee, "in coordination, consultation or concert with, or at the request or suggestion of, a candidate, his authorized committee or their agents" are considered in-kind contributions to that candidate. 2 U.S.C. § 441a(a)(7)(B)(i). Thus, "[a] communication made in coordination with a candidate presumptively confers 'something of value' received by the candidate so as to constitute an attributable [in-kind] 'contribution.'" Advisory Opinion 1988-22. In contrast, an expenditure made by a person, including a political committee, which expressly advocates the election or defeat of a clearly identified candidate, but which is not made "in cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which [is] not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate" is an "independent expenditure." See 2 U.S.C. § 431(17).

6. 2 U.S.C. § 434(a)(6)(A) requires the principal campaign committee of candidates for Federal office to notify, in writing, either the Clerk of the U.S. House of Representatives, the Secretary of the U.S. Senate, or the Commission, and the Secretary of State, as appropriate, of

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each contribution totaling \$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election.

7. Debra and Paul LaPrade reside in Phoenix, Arizona. Debra LaPrade is the sister of Jim Prince, a 1996 primary candidate in California's 46th Congressional District. Before the March 26, 1996 California primary election, Debra and Paul LaPrade made contributions totaling \$10,000 to the Orange County Democratic Central Committee, and Edward R. Haskett, as treasurer ("the Democratic Committee"). The contributions to the Democratic Committee were made with the understanding or the knowledge on the part of the LaPrades that the money would be spent to promote the Prince candidacy at a time when the LaPrades had already made their maximum allowable contributions to the Prince primary and general election campaigns. The Prince Committee contends that it did not have any discussion with the LaPrades concerning the contributions or know that the money would be spent by the Democratic Committee to promote the Prince candidacy.

8. Shortly before the March 26, 1996 primary election, the Democratic Committee used the money from the LaPrades to produce a mailer which expressly advocated the election of Jim Prince, as well as a candidate for state assembly. Moreover, the Prince Committee helped the Democratic Committee to obtain a photograph of Jim Prince to use in the production of the mailer. The Prince Committee contends that it did not know that a mailer was being produced and did not provide the photograph for purposes of inclusion in a mailer.

9. The mailer was an in-kind contribution to the Prince Committee. Further, the value of the production and distribution of the mailer exceeded the \$1,000 limit which the Act allows a person to contribute to a candidate with respect to an election for Federal office. Accordingly,

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Prince for Congress and James M. Prince, as treasurer, violated 2 U.S.C. § 441a(f). In addition, although the Prince Committee received the in-kind contribution, which was in excess of \$1,000, after the 20th day but more than 48 hours before the primary election, it did not file the required 48 hour notification with the Commission. Therefore, Prince for Congress and James M. Prince, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).

V. 1. The Prince for Congress Committee and James M. Prince, as treasurer, accepted excessive in-kind contributions from the Orange County Democratic Central Committee and Edward R. Haskett, as treasurer, in violation of 2 U.S.C. § 441a(f).

2. Although the Prince Committee received the contribution, which was in excess of \$1,000, after the 20th day but more than 48 hours before the primary election, it failed to file the required 48 hour notification with the Commission, in violation of 2 U.S.C. § 434(a)(6)(A).

VI.1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of five thousand four hundred dollars (\$5,400), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondents understand that this agreement does not preclude the Commission from requiring their testimony in connection with this matter.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

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IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY:



Lois G. Lerner
Associate General Counsel

2/23/98
Date

FOR THE RESPONDENTS:



(Name) Jim Prince
(Position) Treasurer
Prince for Congress

12.17.97
Date

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